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EXHIBIT PAGE ONLY

EXHIBIT 3

HUTCHISON & STEFFEN

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14
15 **UNITED STATES DISTRICT COURT**
16 **DISTRICT OF NEVADA**

17 SWITCH, LTD., a Nevada limited liability
company,

18 Plaintiff,

19 vs.

20 STEPHEN FAIRFAX; MTECHNOLOGY; and
21 DOES 1 through 10; ROE ENTITIES 11 through
22 20, inclusive,

23 Defendants.

CASE NO. 2:17-cv-02651-GMN-EJY

**DECLARATION OF PIERS R.
TUELLER**

24
25 I, Piers R. Tueller, under penalty of perjury, hereby declare as follows:

26 1. I am an associate at the law firm Hutchison & Steffen, PLLC and counsel for
27 Switch in the above-referenced matter.

28 2. I am over the age of 18 and I make the statements in this declaration pursuant to

1 my own first-hand knowledge and would be competent to testify to the statements made therein.

2 3. Following the filing of the instant lawsuit Defendants moved to stay discovery
3 on the basis that there was a pending Motion to Dismiss. This Motion was eventually denied.

4 4. The parties then jointly moved for a stay of the case in order to engage in
5 informal discovery in an attempt to resolve the case without judicial intervention.

6 5. On March 19, 2018, Switch served each of the Defendants with a set of Requests
7 for Production of Documents.

8 6. More than one year later, on June 27, 2019, Defendants each provided written
9 responses, but failed to actually produce a single document in response to Switch's requests.

10 7. Defendants stated in their responses that this was due to the lack of a protective
11 order in the case. However, Defendants have refused to agree to the proposed protective orders
12 provided by Switch.

13 8. Beginning in July 2019 Hutchison & Steffen, PLLC began to work with Switch
14 in a limited capacity on the instant litigation. On September 17, 2019, Hutchison & Steffen
15 formally made its appearance in this case.

16 9. On July 19, 2019, Switch sent a meet-and-confer letter to Defendants' counsel
17 flagging inappropriate objections and the complete lack of production of any documents in
18 response to outstanding discovery requests. In a July 24, 2019 letter Defendants' counsel
19 informed Switch that Defendants did not intend to produce any documents or written discovery
20 until a protective order had been entered by the Court. On July 31, 2019, in response to
21 ongoing communication regarding protective order language, Switch's counsel spoke with
22 Defendants' counsel regarding a compromise on certain proposed provisions. In the ensuing
23 weeks, the parties engaged in several email and telephonic discussions in an attempt to reach a
24 mutual understanding. Ultimately, Defendants filed their Request for Pretrial Conference and
25 Proposed Protective Order on September 3, 2019, stating that, "given the number of times and
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1 the length of time that the parties debated this issue, it was clear that it was time for outside
2 help.” Switch filed its Response on September 17, 2019 along with its own proposed
3 protective order. On October 10, 2019 at approximately 3:15 I called Ronald D. Green, counsel
4 for Defendants to address the filing of the Joint Interim Status Report and the deadline for the
5 disclosures of experts and expert reports.

6
7 10. In that call, I requested that the deadline to disclose experts and expert reports be
8 extended until 60 days after the close of discovery.

9 11. Mr. Green stated that Defendants were going to disclose their expert and
10 produce their expert reports that afternoon and he would have to talk with his clients before
11 agreeing to an extension.

12 12. After that phone call I sent an additional email to Mr. Green attempting to
13 address the extension by including applicable language in the Joint Interim Status Report.

14
15 13. Approximately one hour later I again called Mr. Green to meet and confer on the
16 deadline to disclose experts and expert reports stating that because the deadline for disclosure
17 was October 10, 2019 and Mr. Green would be unable to consult with his client’s until after the
18 deadline had passed, Switch was going to need to file a motion to extend the relevant discovery
19 deadlines.

20 14. Subsequently, Defendants served their Initial Disclosure of Expert Witness and
21 an expert report at 5:34pm.

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